

§ 75A-10.3. Death or serious injury by impaired boating; repeat offenses.

(a) Death by Impaired Boating. – A person commits the offense of death by impaired boating if all of the following apply:

- (1) The person unintentionally causes the death of another person.
- (2) The person was engaged in the offense of impaired boating under G.S. 75A-10(b1).
- (3) The commission of the offense in subdivision (2) of this subsection is the proximate cause of the death.

(b) Serious Injury by Impaired Boating. – A person commits the offense of serious injury by impaired boating if all of the following apply:

- (1) The person unintentionally causes serious injury to another person.
- (2) The person was engaged in the offense of impaired boating under G.S. 75A-10(b1).
- (3) The commission of the offense in subdivision (2) of this subsection is the proximate cause of the serious injury.

(c) Aggravated Serious Injury by Impaired Boating. – A person commits the offense of aggravated serious injury by impaired boating if all of the following apply:

- (1) The person unintentionally causes serious injury to another person.
- (2) The person was engaged in the offense of impaired boating under G.S. 75A-10(b1).
- (3) The commission of the offense in subdivision (2) of this subsection is the proximate cause of the serious injury.
- (4) The person has a previous conviction of impaired boating under G.S. 75A-10(b1) within seven years of the date of the offense.

(d) Aggravated Death by Impaired Boating. – A person commits the offense of aggravated death by impaired boating if all of the following apply:

- (1) The person unintentionally causes the death of another person.
- (2) The person was engaged in the offense of impaired boating under G.S. 75A-10(b1).
- (3) The commission of the offense in subdivision (2) of this subsection is the proximate cause of the death.
- (4) The person has a previous conviction of impaired boating under G.S. 75A-10(b1) within seven years of the date of the offense.

(e) Repeat Death by Impaired Boating. – A person commits the offense of repeat death by impaired boating if all of the following apply:

- (1) The person commits an offense under subsection (a) or subsection (d) of this section.
- (2) The person has a previous conviction under at least one of the following:
 - a. Subsection (a) of this section.
 - b. Subsection (d) of this section.
 - c. G.S. 14-17 or G.S. 14-18, and the basis of the conviction was the unintentional death of another person while engaged in the offense of impaired boating under G.S. 75A-10(b1).

The pleading and proof of previous convictions shall be in accordance with the provisions of G.S. 15A-928.

(f) Punishments. – Unless the conduct is covered under some other provision of law providing greater punishment, the following classifications apply to the offenses set forth in this section:

- (1) Repeat death by impaired boating is a Class B2 felony.

- (2) Aggravated death by impaired boating is a Class D felony. Notwithstanding the provisions of G.S. 15A-1340.17, the court shall sentence the defendant in the aggravated range of the appropriate Prior Record Level.
- (3) Death by impaired boating is a Class D felony. Notwithstanding the provisions of G.S. 15A-1340.17, intermediate punishment is authorized for a defendant who is a Prior Record Level I offender.
- (4) Aggravated serious injury by impaired boating is a Class E felony.
- (5) Serious injury by impaired boating is a Class F felony.
- (g) No Double Prosecutions. – No person who has been placed in jeopardy upon a charge of death by impaired boating may be prosecuted for the offense of manslaughter arising out of the same death; and no person who has been placed in jeopardy upon a charge of manslaughter may be prosecuted for death by impaired boating arising out of the same death. (2016-34, s. 2.)